

Notice of Appeal Regarding Election/Restriction

The office action states:

Applicant's election with traverse of Group IV (claims 16-18) in Paper No. 10 filed by fax on 2/28/04 is acknowledged. The traversal is on the ground(s) that the various groups are inseparable. This is not found persuasive because each group of claims does not require any other group of claims. Each of the inventions has separate utility such as in systems that don't have the other inventions. None of the groups requires any of the other groups, proving that they are independent subcombinations.

In my letter dated December 04th, 2003 (response to second office action) I have already provided the proof and reasoning why above statement is incorrect. Claims not only cannot be grouped and classified as they were but were completely dependent and have no separate utility. No proofs to the contrary were provided by the examiner in any office action (as per MPEP § 806.05(d)). Instead only simple unfounded statements were included without any technical consideration to back them up.

My previous reply was required to elect one of the groups solely based on examiner's direct requirement to follow formally defined PTO procedures. I was forced to elect one such artificially created group although grouping was invalid, as I did prove and explain in my previous responses. That election should never have come to any effect as the requirement itself was based on flawed considerations, grouping, classification and incomplete understanding of my invention and its benefits.

I do not need to provide any further proof at present, as I already provided all the proof in my previous responses. I hereby appeal the decision and request that my replies are carefully interpreted, understood and considered.

Please find attached notice of appeal form and a credit card payment form. I still hope that you will find that this is unnecessary as I have shown this before the final OA.